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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,343	11/08/2001	Friedhelm Steinhilber	056066-2026	6778
7590	03/24/2004		EXAMINER WONG, KIN C	
Andreas Grubert Baker Botts L.L.P. One Shell Plaza 910 Louisiana Street Houston, TX 77002-4995			ART UNIT	PAPER NUMBER
			2651	
			DATE MAILED: 03/24/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/005,343

**Applicant(s)**

STEINHILBER

**Examiner**

K. Wong

**Art Unit**

2651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

Claim 5 is objected to because of the following informalities: the term "step" is a special patent terminology that cannot be used in apparatus recitations. The examiner suggests to use "processes or instructions" for that term. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims (1-3) rejected under 35 U.S.C. 102(b) as being anticipated by Nanba (3774916).

Regarding claim 1: Nanba discloses a library for cartridges (or auto-changer or juke-box) of a data storage tape (as depicted in figures 1 and 2 of Nanba), including:

at least one drive (element 14 in figure 2) comprising a cartridge pocket;

a magazine (see col. 2, lines 18-26 of Nanba) comprising one or more receivers for holding the cartridges, the receivers being selectively positionable in front of the cartridge pocket in order to transfer a cartridge between the receiver and the cartridge pocket (as depicted in figure 4 of Nanba); and [and]

a housing having a port through which cartridges can be inserted into the magazine and removed from the magazine (see depiction of elements 12, 17, 77 and 50 in figure 3 of Nanba), wherein the cartridge pocket of at least one drive, a receiver positioned in front of the cartridge pocket, and the port are disposed aligned with one another such that a cartridge can be directly transported linearly through the port and the receiver into the cartridge pocket or can be transported from the cartridge pocket through the receiver and the port (see figures 2, 3 and 4, and, its associated descriptions).

Regarding claims 2: Nanba depicts in figure 2 that wherein the receivers in the magazine revolve on a closed path of revolution about the at least one drive.

Regarding claim 3: Nanba depicts in figures 3 and 4 that wherein cartridges in the cartridge pocket and in the receivers are disposed with a flat side in a common plane, the common plane being substantially parallel to a plane of the revolution of the magazine.

Claims (1-10) are rejected under 35 U.S.C. 102(b) as being anticipated by Marlowe (5847897).

Regarding claim 1: Marlowe discloses a library for cartridges of a data storage tape (as depicted in figures 1 and 2 of Marlowe), including:

at least one drive comprising a cartridge pocket;

a magazine comprising one or more receivers for holding the cartridges, the receivers being selectively positionable in front of the cartridge pocket in order to transfer a cartridge between the receiver and the cartridge pocket; and [and]

a housing having a port through which cartridges can be inserted into the magazine and removed from the magazine (as depicted in element 19 of figure 1 and element 79 in figure 2 of Marlowe), wherein the cartridge pocket of at least one drive, a receiver positioned in front of the cartridge pocket, and the port are disposed aligned with one another such that a cartridge can be directly transported linearly through the port and the receiver into the cartridge pocket or can be transported from the cartridge pocket through the receiver and the port (as depicted in figure 3 of Marlowe).

Regarding claim 2: Marlowe depicts in figure 2 that wherein the receivers in the magazine revolve on a closed path of revolution about the at least one drive (see the associated description for details).

Regarding claim 3: Marlowe depicts in figure 3 that wherein cartridges in the cartridge pocket and in the receivers are disposed with a flat side in a common plane, the common plane being substantially parallel to a plane of the revolution of the magazine.

Regarding claim 4: Marlowe depicts in figures 7A-7D and figures 11A-11H that further comprising a gripper system for transporting the cartridge between a receiver and a cartridge pocket and between a receiver and the port, the gripper system including a pair of grippers, the grippers being adapted to selectively grasp and release a cartridge, the gripper system being linearly movable in a direction of transport of the cartridge, and the grippers being opposingly movable transversely to the direction of transport (see the associated description for details).

Regarding claim 5: Marlowe depicts in figure 7A-7D figures and figures 11A-11H that wherein the gripper system is adapted to transport cartridges in one or more transport steps [processes or instructions], the grippers regripping the cartridge during each of the steps (see the associated description for details).

Regarding claim 6: Marlowe depicts in figures 7A-7D and figures 11A-11H that wherein the grippers are adapted to engage a cartridge in front or behind the cartridge in order to push the cartridge into the cartridge pocket or through the port (see the associated description for details).

Regarding claims 7-10: method claims (7-10) are drawn to the method of using the corresponding apparatus claimed in claims (1-6). Therefore method claims (7-10) correspond to apparatus claims (1-6) and are rejected for the same reasons of anticipation as used above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ban (3512785), Starr (3872506), Hirschman et al (3889169), Dalziel (5449091), Hinnen et al 95682276), Mondocea et al (5021901), Horie (5640288), Helmick et al (6560061) and Ostwald (6130800) are cited for handling cartridge with a gripper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Wong whose telephone number is (703) 305-7772.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Hudspeth can be reached on (703) 308-4825. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for all communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

*kw*

21 Mar 04



DAVID HUDSPETH  
SUPERVISORY PATENT EXAMINER  
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